UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

RITA C. HALEY,	*	
	*	
Plaintiff,	*	JURY DEMANDED
	*	
v.	*	NO. 1:11-cv-265
	*	
DR. SOBROTO KUNDU, individually and d/b/a NEUROLOGY AND NEURODIAGNOSTICS, and ROMA TRAKRU a/k/a ROMA KUNDU, individually and d/b/a NEUROLOGY AND NEURODIAGNOSTICS,	* * * * * *	LEE
	*	
Defendants.	*	

PLAINTIFF'S SUPPLEMENTAL JURY INSTRUCTION – Waiver

The Fair Labor Standards Act places strict limits on an employee's ability to waive claims for unpaid wages or overtime for fear that employers would coerce employees into settlement and waiver.[1] With only two exceptions, employees cannot waive FLSA claims for unpaid wages or overtime for less than full statutory damages.[2] The two exceptions are for: (1) settlements supervised by the Secretary of Labor, and (2) judicially-approved stipulated settlements.[3]

Neither of those exceptions apply in this case. Plaintiff's alleged failure to object to not receiving overtime compensation, and the fact that she continued to work in excess of 40 hours per week, does not relieve the Defendants of the requirement to pay overtime. Accordingly, if you find that Plaintiff worked in excess of 40 hours in any particular week or weeks, and that she is a non-exempt employee, you must award her overtime pay for those overtime hours.

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[1] *Barrentine v. Arkansas-Best Freight System,* 450 U.S. 728 (1981); *Brooklyn Savings Bank v. O'Neill,* 324 U.S. 697, 706-7 (1945).
[2] - *Id.*
[3] - *Manning v. New York Univ.*, 98 CIV. 3300 (NRB), 2001 WL 963982 (S.D.N.Y. Aug. 22, 2001) *aff'd,* 299 F.3d 156 (2d Cir. 2002)

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Respectfully submitted,

BURNETTE, DOBSON & PINCHAK

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CERTIFICATE OF SERVICE

I certify that on the 10th day of May, 2013, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operations of the Court's electronic filing system to all parties indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system. The following party will be served via email:

Roma Trakru
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By: s/ *Donna J. Mikel*